IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 498 OF 2002

Sawaleram Kondaji Sarjine ..Petitioner.

Versus

Sai Prerna Co-op.Credit Societ & Ors. ..Respondents.

Mr. P.M. Khankar for the Petitioner.

Mr. A.S.Desai for the Respodent No. 1.

Mr. A.H.Palekar, AGP for Respondents Nos.2 & 3.

CORAM : S. A. BOBDE, J.

DATED : 14TH SEPTEMBER, 2005.

P.C.:

1. Rule returnable forthwith.

2. Mr. Desai waives service of rule for Respondent No.1 and Mr. Palekar, learned AGP for Respondent Nos. 2 and 3. Heard by consent.

3. The petitioner has challenged the order of the Divisional Joint Registrar, remanding the respondent Banks' application under section 101 to the Dy.

Registrar for fresh hearing.

4. Mr. Desai, the learned counsel for the respondent states that in the meanwhile, the respondent Bank has elected to file a dispute under section 91 of the Co-operative Societies Act for recovery of the amounts allegedly due from the petitioner and that dispute is pending decision. The petitioner is not entitled to oppose the filing of the dispute under section 91 in view of the fact that it was his own contention that the respondent Bank is not entitled to proceed under section 101 but must proceed under section 91.

5. In the circumstances, the impugned order is set aside. Rule is made absolute in the above terms.

DT.14.09.05 (S.A.BOBDE,J)